



2001 SENATE BILL 379

January 11, 2002 - Introduced by Senators M. MEYER, HANSEN, PLACHE, CHVALA and BURKE, cosponsored by Representatives PLOUFF, HINES, SYKORA, GUNDERSON, MILLER and RYBA. Referred to Committee on Health, Utilities, Veterans and Military Affairs.

1 **AN ACT** *to amend* 50.35, 448.015 (4) and 448.02 (3) (a); and *to create* 20.9271
2 and 146.347 of the statutes; **relating to:** banning human cloning and the sale
3 or purchase of an ovum, embryo, or fetus for the purpose of cloning a human,
4 prohibiting the use of state funds for cloning, and providing penalties.

Analysis by the Legislative Reference Bureau

This bill prohibits any person from cloning or attempting to clone a human being or from selling or purchasing an ovum, embryo, or fetus for the purpose of cloning a human being. Cloning a human being is defined in the bill as intentionally creating a genetic duplicate of an individual by transferring the nucleus from any cell of that individual into a human ovum, the nucleus of which has been removed, and intentionally using that human ovum to initiate a pregnancy that is intended to result in the birth of a human being.

Under the bill, any individual who clones or attempts to clone a human being or who sells or purchases an ovum, embryo, or fetus for the purpose of cloning a human being is subject to a forfeiture of not more than the greater of \$5,000,000 or double any monetary gain that the individual derived from the prohibited act; a violator who is a physician may be charged with unprofessional conduct. If the person violating the prohibition is not an individual (for example, a clinic or other institution), the penalty is a forfeiture of not more than the greater of \$10,000,000 or double any monetary gain that the person derived from the prohibited act; for a violator that is a hospital, the department of health and family services must suspend or revoke the hospital's certificate of approval. Lastly, under the bill, state

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funds may not be used for the purpose of cloning or attempting to clone a human being.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 20.9271 of the statutes is created to read:

2 **20.9271 Subsidy of cloning prohibited. (1)** In this section, “clone a human
3 being” has the meaning given in s. 146.347 (1) (a).

4 **(2)** No funds of this state may be authorized for or paid for the purpose of
5 cloning a human being or attempting to clone a human being.

6 **(3)** Whoever violates sub. (2) may be fined not more than \$10,000,000.

7 **SECTION 2.** 50.35 of the statutes is amended to read:

8 **50.35 Application and approval.** Application for approval to maintain a
9 hospital shall be made to the department on forms provided by the department. On
10 receipt of an application, the department shall, except as provided in s. 50.498, issue
11 a certificate of approval if the applicant and hospital facilities meet the requirements
12 established by the department. Except as provided in s. 50.498, this approval shall
13 be in effect until, for just cause and in the manner herein prescribed, it is suspended
14 or revoked. The certificate of approval may be issued only for the premises and
15 persons or governmental unit named in the application and is not transferable or
16 assignable. The department shall withhold, suspend or revoke approval for a failure
17 to comply with s. 165.40 (6) (a) 1. or 2. or 146.347 (2), but, except as provided in s.
18 50.498, otherwise may not withhold, suspend or revoke approval unless for a
19 substantial failure to comply with ss. 50.32 to 50.39 or the rules and standards
20 adopted by the department after giving a reasonable notice, a fair hearing and a

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1 reasonable opportunity to comply. Failure by a hospital to comply with s. 50.36 (3m)
2 shall be considered to be a substantial failure to comply under this section.

3 **SECTION 3.** 146.347 of the statutes is created to read:

4 **146.347 Human cloning prohibited. (1)** In this section:

5 (a) "Clone a human being" means intentionally create a genetic duplicate of an
6 individual by transferring the nucleus from any cell of that individual into a human
7 ovum from which the nucleus has been removed and intentionally using that human
8 ovum to initiate a pregnancy that is intended to result in the birth of a human being.

9 (b) "Physician" has the meaning given in s. 448.01 (5).

10 **(2)** No person may do any of the following:

11 (a) Clone or attempt to clone a human being.

12 (b) Purchase or sell an ovum, embryo, fetus, or fetal body part for the purpose
13 of cloning a human being.

14 **(3)** Violation of sub. (2) by a physician constitutes unprofessional conduct.

15 **(4)** (a) Except as provided in par. (b), whoever violates sub. (2) may be required
16 to forfeit not more than the greater of the following:

17 1. Five million dollars.

18 2. If the individual derived pecuniary gain from the violation, an amount equal
19 to twice the gross gain.

20 (b) Whoever is a person that is not an individual and violates sub. (2) may be
21 required to forfeit not more than the greater of the following:

22 1. Ten million dollars.

23 2. If the person derived pecuniary gain from the violation, an amount equal to
24 twice the gross gain.

25 **SECTION 4.** 448.015 (4) of the statutes is amended to read:

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1 448.015 (4) “Unprofessional conduct” means those acts or attempted acts of
2 commission or omission defined as unprofessional conduct by the board under the
3 authority delegated to the board by s. 15.08 (5) (b) and any act by a physician in
4 violation of s. 146.347 (2) or ch. 450 or 961 or by a physician assistant in violation of
5 ch. 450 or 961.

6 **SECTION 5.** 448.02 (3) (a) of the statutes is amended to read:

7 448.02 (3) (a) The board shall investigate allegations of unprofessional conduct
8 and negligence in treatment by persons holding a license, certificate, or limited
9 permit granted by the board. An allegation that a physician has violated s. 146.347
10 (2), 253.10 (3), 448.30, or 450.13 (2) or has failed to mail or present a medical
11 certification required under s. 69.18 (2) within 21 days after the pronouncement of
12 death of the person who is the subject of the required certificate or that a physician
13 has failed at least 6 times within a 6-month period to mail or present a medical
14 certificate required under s. 69.18 (2) within 6 days after the pronouncement of death
15 of the person who is the subject of the required certificate is an allegation of
16 unprofessional conduct. Information contained in reports filed with the board under
17 s. 49.45 (2) (a) 12r., 50.36 (3) (b), 609.17, or 632.715, or under 42 CFR 1001.2005, shall
18 be investigated by the board. Information contained in a report filed with the board
19 under s. 655.045 (1), as created by 1985 Wisconsin Act 29, which is not a finding of
20 negligence or in a report filed with the board under s. 50.36 (3) (c) may, within the
21 discretion of the board, be used as the basis of an investigation of a person named in
22 the report. The board may require a person holding a license, certificate, or limited
23 permit to undergo and may consider the results of one or more physical, mental, or

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1 professional competency examinations if the board believes that the results of any
2 such examinations may be useful to the board in conducting its investigation.

3 (END)